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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,927	04/01/2004	Douglas L. Elmore	11657-00004-US	2926

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EXAMINER

HANNAHER, CONSTANTINE

ART UNIT	PAPER NUMBER
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2878

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,927

Applicant(s)

ELMORE ET AL.

Examiner

Constantine Hannaher

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-87 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20040401</u> (multiple). | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION**Information Disclosure Statement**

1. With respect to the IDS submitted April 1, 2004, listings CC1, CD1, CJ1, CK1, CL1, CM1, CN1, CO1, CP1, CQ1, CR1, CS1, CT1, CU1, CV1, CW1, CX1, CY1, CZ1, CA2, CB2, CC2, CD2, CE2, CF2, CG2, CH2, CI2, and CJ2 are entirely repetitious of listings set forth on preceding sheets of the IDS. Remarkably, listings CC1 and CD1 are duplicated by CN1 and CO1 on the same sheet.
2. As set forth in MPEP § 609:

37 CFR 1.98(b) requires that each item of information in an IDS be identified properly. U.S. patents must be identified by the inventor, patent number, and issue date. U.S. patent application publications must be identified by the applicant, patent application publication number, and publication date. U.S. applications must be identified by the inventor, the eight digit application number (the two digit series code and the six digit serial number), and the filing date. If a U.S. application being listed in an IDS has been issued as a patent, the applicant should list the patent in the IDS instead of the application. Each foreign patent or published foreign patent application must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application. Each publication must be identified by publisher, author (if any), title, relevant pages of the publication, date and place of publication. The date of publication supplied must include at least the month and year of publication, except that the year of publication (without the month) will be accepted if the applicant points out in the information disclosure statement that the year of publication is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the particular month of publication is not in issue. The place of publication refers to the name of the journal, magazine, or other publication in which the information being submitted was published.

With respect to the e-IDS submitted April 1, 2004, Thundat *et al.*, a U.S. patent application publication, has plainly not been identified by the patent application publication number.

With respect to the IDS submitted April 1, 2004, the listing CR has not been identified to the extent deemed suitable in the IDS submitted in the parent application on April 13, 2004.

3. The information disclosure statement filed April 1, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

With respect to the IDS submitted April 1, 2004, the listing CI1 cannot benefit from the provisions of 37 CFR 1.98(d) because the publication was not previously submitted to or cited by the Office in parent application 09/984,137.

Specification

4. The disclosure is objected to because of the following informalities: the repeated use of a question mark instead of a non-alphabetical character, see for example paragraphs 0094, 0098, 0137, 0149, 0177, 0179; paragraph 0112, "Ab" should read --An--; paragraph 0175 a rather large bitmap is used to depict $i = \sqrt{-1}$.

Appropriate correction is required.

Allowable Subject Matter

5. Claims 1-87 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: the simultaneous analysis of multiple samples as specifically recited in the combination of elements and steps of independent claims 1, 42, or 51, or the simultaneous irradiation of a sample with multiple sources as specifically recited in the combination of elements of independent claim 70, or the mirror rotation technique for measuring anisotropic optical constants as specifically recited in the combination of steps of independent claim 75, or the polarization technique for measuring film orientation as specifically recited in the combination of elements and steps of independent claim 82

or the steps of independent claim 87, all including the detection of infrared radiation using a detector having an array of elements, is not shown or suggested.

Conclusion

7. This application is in condition for allowance except for the following formal matters: as set forth in the objection to the specification.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thundat *et al.* (US20010028036A1) discloses an apparatus **80** (Fig. **5**) comprising an IR light source **12**, a sample **82**, an optically dispersive element **16**, and an infrared array detector **22**, but no plurality of samples and no designation of the detector **22** as a focal plane array detector. Lewis (US006483112B1) discloses an IR light source **14**, a sample holder **16** which positions a plurality of samples, and an IR array detector **18**, but no optically dispersive element or designation of the detector **18** as a focal plane array detector.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Constantine Hannaher whose telephone number is (571) 272-2437. The examiner can normally be reached on Monday-Friday with flexible hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Constantine Hannaher
Primary Examiner